

## Disability Legal Protection in Iraq and the Kurdistan Region: Law vs. Implementation under the CRPD



الحماية القانونية للأشخاص ذوي الإعاقة في العراق وإقليم كردستان: القانون مقابل التنفيذ في ضوء اتفاقية حقوق الأشخاص ذوي الإعاقة (CRPD)

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## *Disability Legal Protection in Iraq and the Kurdistan Region: Law vs. Implementation under the CRPD*

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### **Abstract**

This paper focuses on the legal protection of the disabled in Iraq and the Kurdistan Region by comparing the two on the basis of the Convention on the Rights of Persons with disabilities (CRPD). It will assess how well domestic legal frameworks conform to international standards and the discrepancies between formal legal acknowledgement and the realisation of disability rights. The study takes a comparative legal, analytical, and descriptive methodology. It examines the major provisions of the constitution, federal laws, especially Law No. 38 of 2013 (as amended), and Kurdish laws, such as Law No. 22 of 2011, and other international tools. The paper targets the fundamental rights of equality and non-discrimination, dignity, education, healthcare, employment, and political



representation. The results demonstrate that, although Iraq and the Kurdistan Region have achieved considerable advancement in legislation and officially appreciate most of the rights of persons with disabilities, there are still considerable gaps. These are the lack of explicit constitutional acknowledgement of disability as a discrimination factor, the continued use of a medical and paternalistic stance in several laws, and the presence of restrictive clauses that diminish legal capacity and political participation. Moreover, the lack of effective enforcement mechanisms, administrative obstacles, and the lack of societal attitudes to the effective implementation of these rights in practice are still impediments to the achievement of the realization of these rights in practice. It is concluded that the key problem is not the absence of legal provisions but the disconnect between the legal obligations and their practice. It suggests a radical change in the legislation to align domestic laws with the CRPD, the clear identification of disability-based discrimination, the reinforcement of the enforcement measures, and the adoption of a rights-oriented approach, which would guarantee the substantive equality and the full inclusion of persons with disabilities in society.

#### المخلص

تركز هذه الورقة البحثية على الحماية القانونية للأشخاص ذوي الإعاقة في العراق وإقليم كردستان من خلال إجراء مقارنة بينهما على أساس اتفاقية حقوق الأشخاص ذوي الإعاقة (CRPD) وتهدف إلى تقييم مدى توافق الأطر القانونية المحلية مع المعايير الدولية، وكذلك الفجوات القائمة بين الاعتراف القانوني الرسمي بحقوق الإعاقة وتحقيقها فعلياً. تعتمد الدراسة المنهج القانوني المقارن والمنهج التحليلي والوصفي. كما تتناول الأحكام الرئيسية في الدستور والقوانين الاتحادية، ولا سيما قانون رقم ٣٨ لسنة ٢٠١٣ (المعدل)، والقوانين النافذة في إقليم كردستان مثل قانون رقم ٢٢ لسنة ٢٠١١، بالإضافة إلى التشريعات الدولية الأخرى. تستهدف الدراسة الحقوق الأساسية المتمثلة في المساواة وعدم التمييز، والكرامة، والتعليم، والرعاية الصحية، والعمل، والتمثيل السياسي. تُظهر النتائج أنه على الرغم من أن العراق وإقليم كردستان حققا تقدماً تشريعياً ملحوظاً وأقرا رسمياً بمعظم حقوق الأشخاص ذوي الإعاقة، إلا أن هناك فجوات كبيرة لا تزال قائمة. وتتمثل هذه الفجوات في: الانتقال إلى الاعتراف الدستوري الصريح بالإعاقة كأساس للتمييز، والاستمرار في تبني نهج طبي وأبوي في العديد من القوانين، ووجود نصوص تقييدية تنتقص من الأهلية القانونية والمشاركة السياسية. بالإضافة إلى ذلك، لا يزال غياب آليات الإنفاذ الفعالة، والعقبات الإدارية، وعدم نضج المواقف المجتمعية، تشكل عوائق تحول دون تحقيق هذه الحقوق فعلياً. كما يخلص البحث إلى أن المشكلة الرئيسية ليست في غياب النصوص القانونية، بل في الانفصال بين الالتزامات القانونية وتطبيقها العملي. ويقترح البحث إجراء تغيير جذري في التشريعات لتتماشى مع اتفاقية CRPD، مع تحديد واضح للتمييز القائم على الإعاقة، وتعزيز تدابير الإنفاذ، واعتماد نهج قائم على الحقوق، الأمر الذي يكفل المساواة الموضوعية والإدماج الكامل للأشخاص ذوي الإعاقة في المجتمع.



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### **1-Introduction**

Every human being possesses an existence, identity, and role within social and professional life. Within every society, there is also a group that requires particular adaptation to its surrounding environment because of health conditions that may involve impairments. This adaptation should not be seen as the individual's alone; rather, society as a whole bears responsibility for providing the same care, support, and attention afforded to any other person. In this sense, the position of persons with disabilities must be approached not through charity or pity, but through the framework of rights, equality, and dignity.

A right, whether understood as a capacity, an interest, or a value, is inseparably connected to the realities of political, economic, and social systems, as well as to the prevailing principles and values of society and the function and purpose of law (Thamer, 2012, p. 79). Human rights and fundamental freedoms have consequently acquired a universal and indivisible character, as reflected in international documents such as the Charter of the United Nations of 1945, which laid down the principles and mechanisms for promoting and encouraging respect for human rights within the framework of the United Nations (Weissbrodt et al., year, pp. 17–18). From this standpoint, attention to persons with disabilities and their rights forms an integral part of the broader human rights system and reinforces the principles of equality and non-discrimination, since persons with disabilities are members of society and possess the same rights as others.

The enforcement of legal requirements that safeguard the rights of the disabled and the establishment of an inclusive society are still the greatest challenges to contemporary states. The adherence to these rights is not just a legal requirement but a moral and sociopolitical need that has to be advocated constantly. It is thus the role of the state to identify and implement the rights of persons with disabilities, eliminate obstacles that restrict their civic rights and integration, and do all it can to actualize the rights. This requires a clear national strategy for improving the conditions of persons with disabilities, ensuring the enjoyment of their rights, reducing the difficulties they face, and coordinating the efforts of governmental and societal institutions so as to uphold the supremacy of human rights in a practical and not merely declaratory manner.



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This orientation has gradually developed within international law. Among the conventions concluded under the auspices of the United Nations, the Convention on the Rights of the Child of 1989 was the first human rights treaty to expressly prohibit discrimination against children based on disability and to affirm their right to enjoy a full life as well as special care and assistance necessary for that purpose (Byrnes et al., 2007, p. 11). Before the adoption of the Convention on the Rights of Persons with Disabilities in 2006, however, international human rights treaties did not specifically address the rights of persons with disabilities, and this group did not fully benefit from available protection mechanisms. The 2006 Convention, therefore, marked a significant turning point in establishing a comprehensive international framework and new mechanisms for the protection and monitoring of their rights (Byrnes et al., 2007, p. 11). At the international level, that Convention further affirmed that disability is an “evolving concept,” and that persons with disabilities are those who have long-term physical, mental, intellectual, or sensory impairments that may hinder their full and effective participation in society on an equal basis with others (United Nations, 2006, preamble, para. e).

The significance of this legal development is reinforced by the scale of disability worldwide. The disabled comprised about 15 percent of the global population, or close to one billion individuals in 2012, as per the statistics of the World Health Organization, and they still experience inequality in the availability of basic resources like education, work, health services, and the legal systems. Here, the Secretary-General of the United Nations pointed out that there is a need to eliminate any obstacle that inhibits the inclusion and participation of persons with disabilities in society, such as discriminatory attitudes, and to ensure that infrastructures and services are in place to support inclusive, equitable, and sustainable development that is beneficial to everyone (United Nations, 2013). The increasing international recognition of the human rights of this vast and growing group of the population can no longer be denied. Persons with disabilities should be entitled to enjoy their rights without any form of discrimination based on any grounds.

In Iraq and the Kurdistan Region, the disabled are a significant group in the population, yet no accurate data is reported on the number and type of disabilities. The Ministry of Health in federal Iraq indicated in 2022 that an estimated 15% of Iraq’s population is persons with disabilities, relying on the same percentage then estimated by the World Health Organization globally, while the WHO reported in 2023 that 16% of the world’s





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population lives with some form of disability (World Health Organization, 2023). In turn, the Ministry of Planning published two sets of statistics covering Iraq, including the Kurdistan Region. The first, conducted in 2012, showed that 1,178,811 families included a person with a disability, while the second, conducted in 2016, reported 776,721 men and 580,342 women with disabilities, although this survey covered only 16 governorates and excluded those under ISIS control at the time (Commission of Statistics and GIS, n.d.). Disability in Iraq and the Kurdistan Region consists of physical, sensory, intellectual, and mental impairments, each of which creates unique challenges and, hence, needs specific types of support and protection.

It is against this background that persons with disabilities are one of the categories that require legal protection and special attention due to the compounded challenges that they experience in terms of health, education, as well as social, economic, and cultural integration. Their rights should not be treated as a humanitarian issue, but as one that is directly connected with the constitutional and international obligations of Iraq in the form of domestic legislation and adherence to the international conventions. In 2012, Iraq signed the Convention on the Rights of Persons with Disabilities and ratified it in 2013, which means that the country is bound to the rights and principles set therein. On the national level, the main legislation of disability rights is Federal Law No. 38 of 2013, which was revised into the First Amendment No. 11 of 2024 in an attempt to be more in line with the Convention. Simultaneously, the Kurdistan Region has a legislative framework of rights of persons with disabilities. This field was initially governed by Law No. 22 of 2011, and in 2021, a new Law No. 8 of 2021 was issued to give it a better correspondence to the rights established in the CRPD. This dual legislative framework between the federal and regional levels renders the topic especially appropriate to a comparative legal examination of the extent to which the Iraqi and Kurdistan texts comply with international standards.

Disability has a different definition in legal terms depending on the legislative framework. The Federal Law on the Rights of Persons with Disabilities and Special Needs No. 38 of 2013 refers to a person with a disability as a person who has long-term physical, mental, intellectual, and sensory impairments that cannot participate in society equally and effectively as other persons (Law No. 38 of 2013, art. 2). By contrast, the Kurdistan Region Law on the Rights and Privileges of Persons with



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Disabilities and Special Needs No. 22 of 2011 states that a person with a disability is any person with special needs and who has a permanent, total, or partial physical disability, whether congenital or acquired, and in a stable manner (Law No. 22 of 2011, art. 1/VI). This distinction is legally important because the federal legislature took a more comprehensive formulation, which more closely aligns with the social and human-rights model embodied in the CRPD, and the Kurdistan law associated disability with the concept of special needs and dealt more directly with stable physical impairment. This shows a conceptual difference between the two laws and indicates that the federal definition is more aligned with the modern international disability discourse, whereas the regional definition seems narrower and more medical-based.

### **1-1 The Importance of the Research**

This research is significant because it examines the rights of persons with disabilities as a core part of the human rights framework, reflecting principles of equality, dignity, and non-discrimination. Protecting these rights is both a legal and moral obligation of the state.

Its importance is particularly evident in Iraq and the Kurdistan Region, where persons with disabilities form a large part of the population due to conflict, environmental factors, and weak healthcare systems. Despite existing laws and the ratification of the CRPD, challenges in implementation remain. This study helps identify legal gaps and supports the development of a more effective, rights-based legal approach.

### **1-2 The Research Problem**

The research problem is the discrepancy between the legal acknowledgement of the rights of persons with disabilities in Iraq and the Kurdistan Region and their practical application. Despite the existence of legal frameworks, there is a concern regarding their effectiveness and coherence to guarantee complete protection and inclusion.

This begs the question of whether these laws are sufficient to meet the needs of persons with disabilities in areas such as healthcare, education, employment, and social participation, as well as whether they are in line with international standards such as the CRPD. Based on this, the research aims to assess the legal framework and its practice.

### **1-3 Research Objectives**





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The study is designed to focus on exploring and discussing the legal framework of the rights of people with disabilities in Iraq and the Kurdistan Region, evaluating the responsibilities of the state institutions in protecting and including them. It also assesses the alignment of the domestic legislation with international standards, especially CRPD.

Moreover, the research determines the deficiencies in legislation and practice, in particular, in Law No. 22 of 2011 and Law No. 38 of 2013, examines the existing access of persons with disabilities to rights and services, and suggests recommendations that might help to enhance legal protection, equality, and inclusion.

### **1-4 Research Questions**

Against the above, the study aims to provide answers to the following questions:

1. How well does the Iraqi legal system protect the rights of persons with disabilities in such important sectors as healthcare, education, employment, and social participation?
2. How much do the laws of Iraq and the Kurdistan Region agree with the standards set by the CRPD?
3. What are the key legal and practical issues that undermine the effective enjoyment of the rights by persons with disabilities?
4. Are there any legal provisions that provide substantive equality and non-discrimination or are there any notable gaps in the law and practice?
5. What institutional and legal changes should be offered to protect and include persons with disabilities?

### **1-5 Research Methodology**

The study uses a descriptive, analytical, and comparative legal approach. The descriptive methodology describes the legal framework that regulates the rights of people with disabilities in Iraq and the Kurdistan region, whereas the analytical methodology critically evaluates these regulations to determine their effectiveness and gaps. The comparative approach compares them against international standards, especially the CRPD, and relies on comparative experiences.

In this way, the study offers an in-depth analysis of the legal protection and aims to eliminate the gap between the legal promises and the real practice.



## **1-6 Structure of the Study**

This research is organized into a number of major sections. It starts with an introduction that describes the significance, research problem, objectives, and methodology. It further explores the types of people with disabilities and the conceptualization of disability. The paper goes on to examine civil and political rights, then economic, social, and cultural rights, in the legislation of Iraq and the Kurdistan Region. It also has a comparative legal analysis of the CRPD. Lastly, the research reports the key findings, and the conclusions are offered at the end of the research with recommendations on how to enhance legal protection, equality, and inclusion.

## **2- Categories of People with Disabilities**

Scholars have differed in their classification of people with disabilities, based on the type of disability they have. Undoubtedly, understanding the degree of disability contributes to determining the necessary protection for each category.

This difference in disability categories also plays a role in determining the appropriate treatment, as disabilities take various forms; they may be physical, intellectual, or sensory, and a person may have several disabilities simultaneously.

### **2-1 Physical Disability**

These are individuals who suffer permanent physical injuries resulting from deficiencies or impairments in the musculoskeletal or physical system in general, such as fractures, amputations, and those with chronic diseases (Fahmy, 2000, p. 1).

The following categories fall under this category:

1- People with disabilities: This refers to anyone whose movement is restricted due to a cause, encompassing various categories. It includes cases in which the muscles, bones, or joints are unable to perform their normal functions due to conditions such as polio, osteoporosis, or other types of paralysis (Sha'ir, n.d., p. 20).

2- Heart disease: considered a chronic and serious illness, as it is the pump that circulates blood to all other parts of the body. The body's needs for growth, nutrition, and oxygen depend on it, and its failure disrupts other bodily systems. However, it is worth noting that classifying chronic diseases as disabilities remains a subject of debate among legal scholars.





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3- Polio: This occurs as a result of the human body being infected with a microbe that causes paralysis in the secondary muscles, then in the primary muscles. This includes quadriplegia, which results from a virus infecting the spinal nerves, leading to impaired movement of the quadriceps muscles of the arms and legs. There is also spastic paralysis, which results from contractions in the limb muscles or some of them, as well as tremor paralysis, which leads to instability in body movement, severe weakness in the use of fingers and limbs, and impaired concentration (Sabah, 2017, p. 425).

### **2-2 Sensory Impairment**

One of the defining characteristics of humans is their ability to communicate with others and perceive everything around them. This depends on the integrity of their senses, such as hearing, sight, and speech. Therefore, individuals with impairments in these senses, such as blindness, deafness, and muteness, can be considered to have special needs (Nasrallah, 2002, p. 3).

### **2-3 Mental Disability**

This is a disability that affects an individual's mind, making them different from a healthy person. Therefore, they are unable to perform the mental processes that an average person does. This category includes those with mental illnesses and weaknesses, such as the insane, the imbecile, and the feeble-minded (Sabah, 2017, p. 425).

### **2-4 Individuals with Multiple Disabilities**

This category includes individuals who suffer from more than one disability simultaneously. For example, a person may be both mentally and physically disabled at the same time, such as being paralyzed and intellectually disabled simultaneously, or intellectually disabled with a speech impairment, or visually, aurally, and speech-wise impaired. This category is the most challenging to work with and requires very specialized care.

Disability is a multidimensional problem, as its effects are not limited to the disabled individual but extend to the family and society. These effects vary according to the type and degree of disability. Intellectual disability is more severe than physical disability. The more severe the disability, the greater the obstacles to social integration, in addition to the numerous economic and social consequences resulting from the disability (Mahmoud, 2012, p. 105).

### 3- Civil and Political Rights of Persons with Disabilities

Civil and political rights are basic rights that guarantee equality, dignity, and participation to everyone, including persons with disabilities. The international human rights law, especially the CRPD, acknowledges these rights and strives to ensure that people with disabilities receive equal rights and freedoms as other people.

Civil and political rights are important in enhancing the dignity, autonomy, and inclusion of persons with disabilities. Legal systems can be guaranteed to make sure that people with disabilities are not marginalized in society and can be able to play their roles in society.

#### 3.1 The Right to Equality and the Prohibition of Discrimination Based on Disability:

One of the key pillars of the disability rights law on the international and domestic level is the right to equality and the prohibition of discrimination based on disability. Article 5 of the CRPD states that persons are equal before the law, and all persons are entitled to the equal protection and equal benefit of the law without discrimination. It requires the States Parties to forbid any discrimination based on disability and to ensure persons with disabilities equal and effective protection under the law against any discrimination on any basis. Article 5(3) also stipulates that the States must do everything they can to provide reasonable accommodation, whereas Article 5(4) makes it clear that special measures intended to hasten the achievement of de facto equality are not discrimination. By doing so, the Convention takes a substantive approach to the concept of equality that extends beyond formal equal treatment and mandates positive legal and institutional action to eliminate obstacles in the way of persons with disabilities exercising their rights on an equal footing with others.

This global interpretation is in line with the larger conception of discrimination on the grounds of disability as any differentiation, exclusion, restriction, or denial based on disability whose intent or impact is to limit or deny the acknowledgment, enjoyment, or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other domain. This kind of discrimination is a form of infringing human dignity and human value as it degrades persons living with disabilities to a lower legal and





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social status and denies them the opportunity to fully contribute to society. It is not just a legal flaw, but an organizational injustice that permeates the entire system of rights protection (Convention on the Rights of Persons with Disabilities, 2006, art. 2).

The Iraqi Constitution of 2005 is an important yet partial basis of equality and non-discrimination at the constitutional level. Article 14 provides that the Iraqis will not be discriminated against in the eyes of the law based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief, opinion, or economic status or social status. Article 16 also ensures that there are equal opportunities to all Iraqis and that the State must make the necessary steps to accomplish this goal. These clauses render equality a constitutional value and give grounds to do away with discriminatory acts and policies. It would have been better, however, that the constitutional legislator should have stated expressly in Article 14 that disability, incapacity, or special needs are among the outlawed grounds of discrimination, since this express statement would have put the equality based on disability in a more prominent and solid constitutional protection than where it is to be found by implication or interpretation (Iraqi Constitution, 2005, art. 16; Al-Azzawi et al., 2018, p. 7). Even though it is possible to say that the discrimination of persons with disabilities is already prohibited by the constitutional principle of equality indirectly, the fact that people with disabilities are not recognized directly makes them less visible in the legal system and permits a more strict or limited interpretation. Equality and non-discrimination rules in the constitution are not merely guidelines or suggestions; they are binding rules and are the most important in the law. When the laws or government actions are against these rules, the courts ought to ensure that they are not applied to the extent that they are inconsistent with the Constitution (Radi & Abdulhadi, 2007, p. 177). In this perspective, the constitutional protection of Iraq is significant but not as precise and elaborated as the one mentioned in Article 5 of the CRPD.

The disability laws of Iraq and the Kurdistan Region at the legislative level have some of the provisions of a rights-based framework, but are still not fully applied. The Kurdistan Region Law No. 22 of 2011 is aimed at ensuring that individuals with disabilities and special needs can enjoy all basic rights and freedoms on an equal basis with their non-disabled counterparts. Such a phrase demonstrates the principle of equality provided in the CRPD and means that the law encourages non-discrimination. However, the law does not provide a clear and detailed



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ban on discrimination, as well as the means of enforcing reasonable accommodations and the means by which these rights can be applied in practice. As a result, its vision of equality remains broad and general, which restricts its practical enforceability.

The definition is more developed and clear in the Care of Persons with Disabilities and Special Needs Act No. 38 of 2013. Article 1( VI) clarifies that disability discrimination refers to any form of difference, exclusion, or restriction due to a disability or special needs that damages or negates the acknowledgment of a legal right or the denial of an individual to enjoy or exercise a legal right on the same basis as other people. This definition satisfies the minimum requirement of a human rights approach under the CRPD, and is substantially comparable to Article 2 of the Convention. It is hence a significant move towards the law, since it acknowledges disability discrimination as a legal challenge, rather than a social challenge. But this definition is not sufficient in itself to be able to have real equality, particularly when other aspects of the legal system continue to harbor discriminatory concepts or limitations (Al-Azzawi et al., 2018, p. 7).

In fact, although the equality is constitutionally and legislatively acknowledged, people with disabilities in Iraq are still affected by a range of discrimination both in practice and in legislation. This discrimination does not impact the various groups equally. Girls and women with disabilities tend to encounter various and compounded types of exclusion and deprivation, and children with disabilities can be discriminated against in school admissions, treatment, and learning opportunities based on the type of disability. Persons with intellectual and psychosocial disabilities are one of the most marginalized groups in the labour market in the employment sector, and this significantly reduces their chances of economic self-sufficiency and social inclusion. Such exclusion patterns are strengthened by the prevalence of misconceptions about persons with disabilities not being able to work, learn, and acquire skills and being a burden to their families, society, and the State (World Health Organization, 2011, p. 9).

These social realities are very common in different countries. The World Health Organization and the World Bank indicate that even though equality is on paper, individuals with disabilities continue to be discriminated against. The reason why employers may discriminate is that they misjudge their capabilities or just do not wish to employ them, and





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various forms of disabilities may result in varying degrees of discrimination, with individuals with mental health conditions being the most discriminated. Negative social attitudes also cause severe impediments to education. In certain cultures, disability is regarded as a curse or misfortune, and this may cause children with disabilities to be out of school. The same bias is evident in transportation, where operators might be unaware of how to use accessibility features, or they might discriminate directly, like denying a person with a disability a stop. This demonstrates that equality is not just a declaration, but also involves the implementation of effective laws, enforcement, and social attitude adjustments to eliminate legal and social obstacles (World Health Organization & World Bank, 2011, pp. 179, 216, 240). This is why equal treatment and non-discrimination should be regarded as the key methods to safeguard all other rights and freedoms. In the absence of equality, individuals are unable to fully enjoy their rights, as discrimination will provide additional barriers, resulting in exclusion, dependence, and reduced social and legal status. Justice, the rule of law, and a fair society are therefore founded on equality. When equality is not considered, such great values as freedom are undermined. Freedom without equality can result in exploitation, and equality without freedom can result in control and oppression; in this sense (Ahmed, 2015, p. 63; Ateeq, 2005, p. 78).

In terms of comparative law, the issue in Iraq is not that there are no rules regarding equality, but rather that there are laws supporting rights and laws that remain discriminatory. Despite the equality and non-discrimination acknowledged by the Convention on the Rights of Persons with Disabilities, Law No. 22 of 2011, and Law No. 38 of 2013, most Iraqi laws continue to treat persons with disabilities in a discriminatory manner, particularly those with intellectual and psychosocial disabilities. One such example is Article 495 of the Iraqi Penal Code No. 111 of 1969. Anyone who turns out a mad individual to be feared of, or a dangerous animal into a road, is punished in this article. This law is a gross violation of the human dignity of a mentally ill person, as it compares him to a dangerous animal and strengthens the negative and demeaning stereotypes of the legal system (Al-Azzawi et al., 2018, p. 7).

The same discrimination is observed in the Civil Code, the Personal Status Law, and other laws concerned with legal capacity and personal status. These laws tend to assume that people with mental and intellectual disabilities are incapable of making legal decisions, and thus deprive



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these people of the right to exercise many of their rights independently and to have their legal actions readily revoked. Consequently, the amended Personal Status Law and other civil laws continue to pursue a paternalistic approach, i.e., they consider these people as people who are incapable of acting on their own, rather than as people who have rights and merely require assistance to exercise them. This practice is evidently contrary to the Convention on the Rights of Persons with Disabilities, founded on the respect of personal autonomy, legal recognition, and equality before the law (Al-Azzawi et al., 2018, p. 7).

The Iraqi civil law has legal obstacles even to people with sensory disabilities. Article 104(3) of the Iraqi Civil Code No. 40 of 1951 provides that in case an individual is deaf, mute, blind, or both deaf and mute, and is unable to express his or her will, a court may designate a guardian and restrict his or her legal activity. Ideally, the actual problem would be whether the individual is able to express his/her desires in any available manner, be it through sign language or any other aids. But, in reality, this is not always the case, and this rule is usually applied at once, even when such support is present. This demonstrates an old-fashioned perception that communication challenges are viewed as incapacity, rather than being supportive to assist individuals to make their own choices.

Discrimination is also practiced in the daily administration, even where the law is silent to the contrary. To illustrate, individuals who are visually impaired may not be permitted to operate their bank accounts on their own since banks have a guardian or witness to accompany them throughout every transaction. Such situations do not mean that the law is the problem, but there are internal processes that restrict independence and autonomy. This is indicative of a larger problem in Iraq, whereby administrative procedures can be too protective and restrictive, and they curtail the rights of the people without any clear legal explanation. In general, these illustrations indicate that Iraqi legislators have not completely revised the laws on legal capacity and equality of persons with hearing, visual, intellectual, and psychosocial disabilities. This is not only in their rights and access to services, but also in their societal perception, particularly in issues such as inheritance, finances, and key personal choices. Though there is a bit of recognition of equality and non-discrimination in the Iraqi Constitution, Law No. 22 of 2011, and Law No. 38 of 2013, the legal system remains unequal. It is a mixture of





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certain positive actions and numerous rules and practices that still discriminate and restrict true equality.

Finally, the Convention on the Rights of Persons with Disabilities is the most comprehensive as it considers equality and non-discrimination as actual legal rights that must not only be prohibited, but also that reasonable accommodations must be made. Although there is some improvement in the Iraqi laws, the real equality will be reached only with significant changes in laws, which will eliminate the discriminatory rules, clearly define disability as the discriminating factor, and bring the national laws into line with the Convention.

### **3.2 The Right to Dignity and Protection from Harm and Torture**

A decent and dignified life is a fundamental human right recognized by international and national laws. All other rights are based on human dignity, which implies that all people must be treated as valuable, not as objects. This concept is what it is like to be a human being, and states have to defend the life, freedom, and safety of people (Saleh, 2011, p. 252). Thus, states should combat any slavery, exploitation, and abuse. They should also develop policies and regulations to safeguard individuals with disabilities and enable them to live with dignity. This obligation is established in Article 25 of the Universal Declaration of Human Rights (1948), which says that all people are entitled to a decent standard of living and a dignified life. The Declaration also clarifies that nobody must be subjected to torture or cruel or degrading treatment, and it also highlights the right to life, freedom, and personal security (United Nations, 1948, preamble, arts. 3 & 5). It is on these protections that the vulnerable, such as persons with disabilities, are shielded against violence, exploitation, and degrading treatment.

Prohibition of torture and inhuman or degrading treatment is closely associated with the safeguarding of human dignity, as well as personal integrity. In the international human rights law, the security of the basic rights of the people depends on their protection against such damages. Such a ban is universal: all human beings should be safeguarded not only physically but also psychologically (Radi & Abdulhadi, 2007, p. 166). The CRPD particularly acknowledges the fact that persons with disabilities are usually more susceptible to abuse and exploitation. Its preamble states that women and girls with disabilities are more vulnerable to violence, neglect, and exploitation at home and in society.



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This shows the importance of states to make special efforts to ensure their safety and dignity.

Article 15 of the CRPD stipulates that state parties take special measures by ensuring that individuals with disabilities are not to be tortured or subjected to cruel, inhuman, and degrading treatment or punishment. It needs to be certain that they get equal protection against abuse as other people. Another point of the article is that medical or scientific research on individuals with disabilities should not be carried out without their free and informed consent, and the personal autonomy and integrity of the body should be respected. The provision is meant to prevent cases where people with disabilities were occasionally subjected to experiments without their consent. Also, Article 15 asks State parties to the conventions to establish effective laws, policies, judicial procedures, and other means of preventing torture and degrading treatment. This will help to protect persons with disabilities in every setting, such as in healthcare facilities, detention centers, and other places where they are particularly vulnerable.

In the Iraqi legal system, the right to dignity and the ban on torture are identified mainly by the constitutional provisions. In the Constitution of Iraq, several articles focus on the preservation of human dignity and the fact that exploitation and abuse are prohibited. Article 29/Third forbids the economic exploitation of children in all of its forms, and the State shall take the necessary measures for their protection, and in paragraph four of the same article, outlaws all kinds of violence and abuse in the family, school, and society. More specifically, Article 37 of the Iraqi Constitution provides additional guarantees related to personal liberty and protection from torture. Article 37 (1) confirms that the freedom and dignity of the human being are protected, and Article 37 (3) prohibits all forms of psychological and physical torture and inhumane treatment. Any confession made under force, threat, or torture shall not be relied on, and the victim shall have the right to seek compensation for material and moral damages incurred in accordance with the law (United Nations, 2017, para. 83; United Nations, 1948, art. 25; Iraqi Constitution, 2005, art. 29/3, art 29/4, art 35/1, art 35/3). These provisions demonstrate that the Constitution takes the responsibility of safeguarding the dignity and integrity of every person. They established a broad legal system to avoid the exploitation and humiliating treatment of all. These, however, apply to all citizens and are not specifically targeted at the specific risks and vulnerabilities of people with disabilities.





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Besides the constitutional provisions, the Iraqi laws have attempted to cover the rights of individuals with disabilities by enacting certain laws. The Law on the Care of Persons with Disabilities and Special Needs (Law No. 38 of 2013) stresses the necessity to provide a dignified life for persons with disabilities and demonstrates the realization of disability as a human diversity, but not a personal defect. This can be seen in Article 2, especially paragraph (Third), where it is emphasized that persons with disabilities need to be provided with a dignified life. Moreover, the law has supportive social measures that are stipulated by the law, such as training and awareness programs. It is worth noting that Article 5 (Fourth) mandates the training of families of persons with disabilities on the importance of interacting and taking care of them in a manner that does not diminish their dignity or humanity, hence encouraging respectful and inclusive social integration. Moreover, the law governs institutions and rehabilitation centers that offer services to persons with disabilities by submitting them to the supervision of the qualified authorities, especially the Ministry of Labor and Social Affairs, according to the relevant legislation. All these provisions are evidence of a legislative style that emphasizes dignity, social inclusion, and appropriate care in the family and institutional contexts (Law on the Care of Persons with Disabilities and Special Needs, 2013, art. 2/3–4, art. 5/4). These clauses demonstrate that Iraqi legislators are attempting to incorporate the concept of human dignity into the disability legislation and provide appropriate care and protection.

Nevertheless, in the comparison of the laws in Iraq with the Convention on the Rights of Persons with Disabilities, there are some gaps. Article 15 of the Convention expressly forbids torture and degrading treatment of persons with disabilities. Conversely, Law No. 38 of 2013 lacks a clear rule that expressly ensures the protection against torture or cruel and degrading treatment. Rather, it provides indirect protection by regulations regarding dignity, family care, and institutional oversight. Likewise, Article 15 of the Convention is absent from Law No. 22 of 2011, which grants several rights and protections but does not include a direct provision. This implies that the protection of persons with disabilities against torture and degrading treatment is not clearly and specifically provided in the Iraqi law, and that the protection of persons with disabilities remains largely based on general constitutional rules.

Article 22 of Law No. 38 of 2013 tried to deal with exploitation by setting penalties for any person with a disability who uses their disability



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for begging, including imprisonment or a fine. Even though this rule is meant to decrease organized begging and exploitation, it has been criticized in the sense that it mostly penalizes the person with a disability rather than those who may be compelling or exploiting them. Instead, the more appropriate solution would be to penalize those individuals who take advantage of the disabled, either by compelling them to go out and beg or by compelling them to work without pay. As a result, the present law is considered weak and unable to address the actual reasons for exploitation.

As a matter of fact, individuals with disabilities continue to be highly vulnerable to economic exploitation and abuse. In other instances, physically or intellectually disabled individuals are compelled to beg or be employed to perform extremely low-paying or unpaid jobs. Such practices are against the fundamental principles of dignity and equality, and they need powerful laws and good implementation. States have a full responsibility to ensure that they stop such exploitation, penalize the perpetrators, and take care of the victims. When the authorities do not take the necessary action, this may be regarded as negligence, i.e., the state has not met its legal and constitutional obligation to safeguard vulnerable individuals.

Other laws also support the ban on torture and degrading treatment in Iraq. Iraq became a state party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by Act No. 30 of 2008 (United Nations, 2017, para. 84). The Iraqi Penal Code provides that torture is a crime in Article 333. It prosecutes any government official who tortures or commands another to torture a suspect, witness, or expert to secure information or a confession. The use of force or threats is also considered a kind of torture in the law and is punishable by imprisonment (United Nations, 2017, para. 85). These regulations indicate that the Iraqi law acknowledges that torture is a serious crime and there are provisions to penalize the perpetrators.

Finally, the safeguarding of human dignity, the prohibition of torture, and the elimination of exploitation are some important provisions of international and national human rights law. The Convention on the Rights of Persons with Disabilities is an international agreement that establishes explicit guidelines that guard persons with disabilities against violence, abuse, and degrading treatment. Even though the Iraqi Constitution and other laws that protect the dignity and personal liberty





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are important, a comparison reveals that the Kurdistan and Iraqi disability laws still lack clarity in offering some of the same protections that are provided in international law. To address this, there is a need to reform the law to explicitly incorporate the standards of the Convention, enhance protection against exploitation and abuse, and to have effective enforcement to uphold the dignity and rights of persons with disabilities.

### **3-3 Liberty of Movement and Nationality**

The CRPD in Article 18 specifically acknowledges the right of persons with disabilities to liberty of movement, freedom of choice of residence, and nationality, on equal terms with other persons. It also commits States Parties to the fact that persons with disabilities are not arbitrarily deprived of nationality based on disability, can receive and use nationality and travel documentation, and are free to exit any country, including their own. Also, Article 18 ensures that children with disabilities are registered as soon as they are born, and they have the right to a name and nationality. The Convention takes a more rights-based stance, liberty of movement, nationality, and birth registration as independent and enforceable legal rights (United Nations, 2006).

At the domestic level, the Iraqi constitutional framework provides partial support for these guarantees. Article 44 of the 2005 Iraqi Constitution guarantees citizens the right to liberty of movement, the freedom to choose their place of residence, and the right not to be compelled to reside in a particular place. In parallel, Article 18 of the Constitution provides that Iraqi nationality is the right of every Iraqi and the basis of citizenship, and that anyone born to an Iraqi father or an Iraqi mother is considered Iraqi, which is regulated by the Iraqi Nationality law. These constitutional provisions reflect formal recognition of movement and nationality as fundamental rights; however, they remain general in scope and do not specifically address the situation of persons with disabilities or the barriers they may face in enjoying these rights on an equal basis with others. So, even though the Iraqi Constitution (2005) set out important general rules, it does not fully provide the specific protections that Article 18 of the CRPD requires for people with disabilities.

Article 18 of the CRPD is not explicitly provided in Law No. 22 of 2011 in the Kurdistan Region of Iraq. Even though the law tends to ensure that persons with disabilities enjoy their rights and freedoms, maintain their dignity, and encourage their integration into society, it does not



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specifically acknowledge liberty of movement, freedom of choice of residence, nationality, birth registration, and access to nationality and travel documents as rights of persons with disabilities. Article 5 deals with the registration of persons with disabilities and special needs and delegates that task to the competent administrative authority, whereas Article 6 deals with the creation of a special medical committee that examines and determines cases of disability and special needs to be registered and entitled to the law. Rather than protecting people with disabilities' civil status rights in the sense that Article 18 of the CRPD intends, these administrative provisions deal with identifying them within the welfare system. In this regard, KRI Law No. 22 of 2011 provides indirect protection in this area and fails to enshrine liberty of movement and nationality as independent and enforceable rights.

The same legislative pattern appears in the Care of Persons with Disabilities and Special Needs Act No. 38 of 2013. The Act is more concerned with care, rehabilitation, non-discrimination, integration, and provision of a dignified life to persons with disabilities; the law does not specifically state liberty of movement and nationality as a specific right for persons with disabilities, as is demanded in Article 18 of the CRPD. However, Article 15(I)(F) refers to the “registration and follow-up of children born with a higher risk of disability”, which can be considered a narrow legislative recognition of early administrative registration in the area of disability. However, this provision cannot be compared to the Convention, which states that children with disabilities must be registered as a civil matter and protected against statelessness immediately after birth. Instead, it is presented in a medical and preventive manner, without considering the perspective of nationality rights or equal legal status (Al-Azzawi et al., 2018, pp. 24–25).

The issues in the Iraqi legal system become more apparent when examining the Iraqi Nationality Law No. 26 of 2006, which is also applicable in the Kurdistan Region. This legislation appears to be discriminatory against mentally or intellectually challenged people. Article 1, Paragraph (C) associates adulthood with full legal responsibility and accountability of actions. However, in reality, not every adult is regarded as fully competent - some can be regarded as partially or completely incompetent due to such factors as mental illness, dementia, or negligence. This interferes with their legal rights, such as nationality. As an example, obtaining a nationality or any other process associated with the same might be impossible without the consent of a





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guardian. This demonstrates that the law is not equal and does not acknowledge the legal rights of people with disabilities completely (Al-Azzawi et al., 2018, p. 24).

Another aspect that contributes to the discriminatory effect is Article 6 of the Nationality Law, which governs the acquisition of Iraqi nationality by non-Iraqis upon long-term residence. Some of the conditions that are set include the fact that the applicant should be over the age of majority and should not be infected with communicable diseases. These circumstances are severely problematic in terms of disability rights. The majority age, when viewed in terms of a narrow definition of legal capacity, can deny the intellectually or psychosocially disabled access to the acquisition of nationality independently. Similarly, the ability to be free of communicable diseases is an exclusionary medicalized strategy that can hardly be reconciled with current human rights norms, particularly when disability and health status are considered as reasons to restrict access to nationality (Al-Azzawi et al., 2018, p. 24).

In the comparison of the laws, it is evident that there is an inconsistency between the CRPD and the Iraqi law. Article 18 of the CRPD states that nationality should not be unreasonably denied to persons with disabilities and that persons with disabilities should enjoy equal access to nationality documents and processes. Nevertheless, nationality law, coupled with disability laws, continues to limit people with disabilities, particularly those with mental or intellectual disabilities, in Iraq.

Such limitations are usually based on the decisions that the guardians make on their behalf, medical categories, and the will of the authorities. This indicates that the legal system continues to be based on a welfare-based and paternalistic approach, but not a rights-based one. That is, the law does not just fail to adhere to the CRPD comprehensively, but it in fact goes against it by associating nationality rights with concepts of capacity and usefulness that discriminate against persons with disabilities.

The Committee on the Rights of Persons with Disabilities also expressed concerns regarding Iraq, which supports this conclusion. The Committee observed that not every child with disability is registered at birth. Consequently, such children can end up stateless, particularly those born to foreign parents, unknown parents, or in conflict-affected areas. The Committee suggested that the government should allocate sufficient human, technical, and financial resources to make sure that all children



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with disabilities are registered and are not exposed to statelessness. This indicates that it is not only a legal issue, but a practical problem that has already been identified at the international level as a failure in practice and protection (United Nations, 2019, paras. 33-34).

The Kurdistan Region of Iraq and Iraqi Law No. 22 of 2011 and 38 of 2013 do not specifically recognize freedom of movement and nationality rights of the people with disabilities, in contrast with Article 18 of the CRPD. Though the Iraqi Constitution is generally in a position to guarantee such rights, no clear and practical interpretation of disability laws can protect the rights of individuals with disabilities. More importantly, the Iraqi Nationality Law has provisions that are linked to the legal ability and health, which may be discriminatory to individuals with disabilities, especially those with mental or intellectual disabilities. This shows that the law still treats persons with disabilities more as a medical test, an administrative test, and a welfare test, and not as full-fledged persons with equal rights. In turn, the current practice does not respond to the human rights provisions of the CRPD. The legislation should be changed to clearly guarantee the rights to freedom of movement, nationality, registration of birth, and access to documents to persons with disabilities on the same basis as other individuals.

### **3-4 The Right to Exercise Political Rights**

Voting and engaging in politics are basic human rights, and the disabled should be accorded this right. CRPD identifies this right very well. It commits countries to make sure that people with disabilities can have equal political and general life, which includes voting in convenient ways, and that they can participate in the government without any discrimination (Convention on the Rights of Persons with Disabilities, 2006, art. 29; Abdel Bari, 2012, p. 63). Article 29 of the CRPD emphasized the full and active participation of persons with disabilities in political and civic life. The CRPD also obligates states parties to remove barriers to voting, access to the office, and to political organizations, making them equal to other citizens

Article 20 of the Iraqi Constitution states that Iraqi citizens, men and women, shall have the right to participate in public affairs and to enjoy political rights, including the right to vote, elect, and run for office (Law No. 45 of 2013, art. 5; Law No. 36 of 2013, art. 5). People with disabilities are allowed to engage in political activities at any given level,





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including parliament, provinces, and local councils. They can also participate in or withdraw from political parties and create or participate in organizations of people with disabilities. Also, they have the right to free expression and freedom to choose someone to lead them in voting in case they are in need of it.

However, in practice, there are restrictions on the political rights of a person with disability in the laws of Iraq. The full legal capacity is a precondition of the eligibility to vote in the Law on Elections to the House of Representatives, and in the Law on Elections to Provincial, District, and Sub-district Councils (Law No. 45 of 2013, art. 5; Law No. 36 of 2013, art. 5). This has led to depriving people with a lesser legal capacity, particularly the intellectually or mentally challenged people, of their right to vote, which is directly opposite to the provisions required in Article 29 of the CRPD. According to the Parliamentary Elections Law (No. 45 of 2013, Article 5), the only people who can vote are those who are deemed to be fully capable. This implies that there are individuals who cannot vote, hence their contribution to politics is limited. The legislation also introduces additional requirements for individuals aspiring to become candidates, which further limit political participation.

The same restrictions are echoed in provincial, district, and sub-district council elections. Under Law No. 36 (amended 2008), voters must be Iraqis, fully qualified, and aged above 18 years and registered in the voting register (Individuals with mental or intellectual disabilities are not usually registered) (Al-Azzawi et al., 2018, p. 43). This indicates that there is still discrimination in the system. Civil society laws are also clear in this. According to the NGO Law No. 12 (2010), the founders should be fully competent and at least 18 years old (Al-Azzawi et al., 2018, p. 44). Membership is also restricted by the Political Parties Law No. 36 (2015) to individuals who are not legally recognized as fully capable of making their own decisions (Al-Azzawi et al., 2018, p. 44). Collectively, these regulations give excessive authority to medical authorities to make decisions on participation. This is an indication of a legal system that limits the political rights of individuals with disabilities.

Legal restrictions are further complicated by practical barriers. Most of the polling stations are not accessible, electoral information is not accessible in accessible formats, and the political parties seldom give disability issues priority. People with a disability are grossly underrepresented as candidates; there are not many who have ever run,



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and none who have ever been elected. To overcome these difficulties, the civil society organizations in Iraq have suggested temporary electoral quotas or other positive interventions, in line with the CRPD provisions, to improve participation, representation, and inclusion of disability-related concerns in public policy.

At the institutional level, the Commission of the Care of Persons with Disabilities and Special Needs, which is a part of the Ministry of Labor and Social Affairs, is expected to represent persons with disabilities, protect their rights, and fulfill their legal responsibilities (Law No. 38 of 2013, art. 9(1)). The Commission is a legal person and is headed by a legally appointed official. It has a Board of Directors that is in charge of policy formulation, legislative projects, service delivery, research, training, awareness, and reporting to the Council of Ministers. Nevertheless, the fact that the Commission is located in a ministry makes it less independent, which may inhibit its capacity to become an effective representative body. More importantly, the law does not specify that the head of the Commission must be a person with a disability, which is consistent with CRPD Article 29(b) that highlights the importance of empowering persons with disabilities to engage in all and every aspect of public life. When this principle is applied to the management of institutions that specifically serve persons with disabilities, it would make representation stronger and leadership representative of the constituency served.

The semi-autonomous government of the Kurdistan Region, which was formed after 1991, had its own legal and administrative system, elections, and governmental systems. Elections to the Kurdistan Parliament and regional councils are governed by Law No. 1 of 1992 and its amendments, Laws No. 2, 3, 4, and 5 of 2009. This legislation stipulates the qualifications of voters, the qualifications of candidates, and the electoral process, which guarantees a structured electoral system. However, similarly to the case in national law, they lack clauses to ensure the political engagement of a person with disability. Participation of persons with intellectual or mental disabilities is usually limited by eligibility criteria like full eligibility or legal capacity, as well as practices in the procedures. Although the Independent High Electoral Commission (IHEC) has implemented administrative solutions, including voting assistance, these are not legally enshrined, and a lot of obstacles remain.





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It is noteworthy that the Law No. 22 of 2011 (as amended by Law No. 8 of 2021) of the Kurdistan Region and the Law No. 38 of 2013 (even after amendment by Law No. 11 of 2024) of Iraq do not directly govern the political rights of person with disability, which is a weakness in the regional legislation just as it is in national systems. Both national and regional legislations thus do not comply with CRPD Article 29 requirements, which stipulate accessible participation in elections, candidacy, public office, and political organizations.

Comparative analysis shows that there are systemic gaps in the alignment of domestic law with international standards in Iraq and the Kurdistan Region. CRPD requires states to eliminate legal and practical obstacles, provide reasonable accommodations, and ensure equal representation. The electoral laws of nations and regions, however, uphold the exclusionary legal capacity requirements and do not require institutional mechanisms to guarantee meaningful participation. To close this gap, improve political inclusion, and meet international requirements, affirmative actions, including temporary electoral quotas of persons with disabilities and independent representative bodies headed by people with disabilities, are required.

Finally, the political rights of persons with disabilities in Iraq and the Kurdistan Region are formally enshrined in constitutional and international law but compromised by the restrictions of legal requirements, institutional constraints, and practice. There is an urgent necessity to reform and relieve the limits of legal capacities, create independent representative bodies, guarantee that the leadership should be made by a person with disability, provide access, and provide positive steps. These measures would help to align domestic laws with CRPD Article 29, create equality, and make sure that persons with disabilities are fully and actively involved in political and social life.

### **4- Economic, Social, and Cultural Rights of Persons with Disabilities**

Economic, social, and cultural rights of persons with disabilities are essential parts of international human rights law, which is largely defined within the United Nations framework, particularly in the CRPD. These rights aim to make sure every person with a disability enjoys these rights equally with other people without discrimination in every aspect of life.



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More importantly, the implementation of these rights lies not just in legal frameworks but also in the allocation of resources and social attitudes. The change in the medical model of disability to a human rights-based approach is necessary to guarantee the true inclusion and equality of persons with disabilities in economic, social, and cultural life.

### **4.1 Right to Education**

The right to education is one of the most basic human and cultural rights, which are accepted in international and national law. Education is an important part of human personality development; it reinforces the feeling of dignity and allows people to engage in social life. This is why education is considered a fundamental right in international conventions and national constitutions that should not be discriminated against and should be made available to everyone in society. This right is supposed to encourage the full development of the intellectual, moral, and social potential of the individual and thus enrich the human personality and deepen the understanding and knowledge (Radi & Abdulhadi, 2007, pp. 202–203; International Covenant on Economic, Social and Cultural Rights, 1966, art. 13; United Nations, 1948, art. 26). In this regard, it is especially significant to offer educational opportunities to persons with disabilities so that they can prove their abilities and intellectual level and become full-fledged members of society. Education for people with disabilities can take place in regular schools or special education institutions that cater to their needs (Ahmed, 2015, p. 355).

On the global scale, the CRPD provides an elaborate framework for ensuring the right to education among persons with disabilities. Article 24 of the Convention confirms that individuals with disabilities are entitled to education without discrimination and equal opportunity for all. that States Parties to the Convention have an obligation to provide an inclusive education system at all levels and lifelong learning opportunities. The article highlights that the disabled should not be left out of the general education system on the grounds of disability and that children with disabilities should be allowed to receive free and compulsory primary education and secondary education on equal terms with other children in the communities where they reside. States must make reasonable accommodations and provide the support needed in the general education system to enable effective learning. Also, Article 24





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requires states to take action to support the study of Braille, other scripts, augmentative and alternative communication, and sign language, and advance the linguistic identity of deaf persons. It also involves the training of teachers and other educational staff in disability awareness and inclusive teaching techniques, including training teachers with disabilities. These actions are meant to make sure that individuals with disabilities are able to realize their potential, dignity, and self-worth and enhance respect for human rights and human diversity.

The educational challenges of persons with disabilities in the world have also been pointed out by international organizations as serious. The United Nations Educational, Scientific, and Cultural Organization estimates the literacy rate of adults with disabilities to be only 3 percent, and a study carried out by the United Nations Development Programme in 1988 showed that only 1 percent of women with disabilities were literate (Ahmed, 2011, p. 34). These figures demonstrate how persons with disabilities face a great challenge in accessing education. Challenges in physical access, communication, the absence of special educational materials, and inadequately trained teachers can deny many disabled children the opportunity to get a proper education. Unless these barriers are well managed, they can result in isolation, dropping out of school, learning delays, or even total exclusion from the education system (Abdel Bari, 2012, p. 56).

In the Iraqi system of law, the right to education is a constitutional right. Article 34 of the Constitution of Iraq acknowledges education as a fundamental right in that the Constitution states that education is a key to the development of society and that primary education is mandatory. The Constitution also states that the state shall fight illiteracy, ensure free education at all levels, promote peaceful use of scientific research, and promote creativity, innovation, and intellectual excellence. It also ensures public and private education as per the law (United Nations, 2017, para. 129). These provisions establish a broad constitutional foundation for ensuring access to education for all citizens, including persons with disabilities.

Besides constitutional provisions, various legislative measures have been adopted to support the inclusion of persons with disabilities in the education system in Iraq. Among the first steps is the Compulsory Education Act, which confirms the free and compulsory nature of primary education to all children of school-going age. According to the



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law, the Ministry of Education must also increase the number of special classes in regular schools for students with learning disabilities or sensory impairments to offer them the necessary educational support and help them develop their talents (United Nations, 2017, para. 131). In the same way, the Ministry of Education established a special department for special education through Regulation No. 13 of 1972 to offer educational services to persons with disabilities in the general education system (United Nations, 2017, para. 132). These steps show that there were initial efforts by the Iraqi government to meet the educational demands of individuals with disabilities.

Later, more detailed provisions were added to the Iraqi Law on the Care of Persons with Disabilities and Special Needs. Article 15 of this law imposes several duties on the Ministry of Education, such as providing access to primary and secondary education to persons with disabilities based on their abilities and capacities. The law also demands that special education programs, inclusive education models, and parallel educational systems should be developed, and educational institutions that serve students with disabilities should be supervised. Additionally, the Ministry should come up with proper curricula, offer necessary equipment at no cost, and ensure the availability of qualified educational and technical personnel to assist students with disabilities since the early childhood stage. The Ministry of Higher Education and Scientific Research also has its responsibilities, as it is obliged to offer educational opportunities to persons with disabilities in higher education institutions and train special teaching staff who could work with this population. Also, the law mandates that one place in every postgraduate specialization should be reserved for persons with disabilities and special needs (United Nations, 2017, para. 138; (Law No. 38 of 2013, art. 15/2–4). These provisions demonstrate the legislator's intention to integrate persons with disabilities into the education system at all levels.

The right to education of persons with disabilities is also established in the legal framework of the Kurdistan Region of Iraq. Law No. 22 of 2011 regarding the Rights and Privileges of Persons with Disabilities and Special Needs provides equal educational opportunities for persons with disabilities. The law states that they have the right to study in educational institutions and undertake postgraduate studies. The law under Article 14 clearly states that a disability should not prevent an individual from enrolling in any public or private educational institution (Law No. 22 of 2011, art. 14/1). Besides, Article 9 of the same law requires the





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government and other educational institutions to provide special teachers, teaching materials, and other facilities to address the special needs of persons with disabilities and to enable them to engage in the learning process on the same level as their counterparts (Law No. 22 of 2011, art. 9/2).

Practically, several education programs and institutions have been set up in Iraq to help the education and rehabilitation of persons with disabilities. In 1991 and revised in 2002, the curriculum of the Institutes for the Care of the Disabled introduced specialized educational curricula to serve persons with disabilities. These programs are educational and vocational training programs that offer people with different forms of disabilities, such as visual, physical, intellectual, and developmental disabilities like autism. This has been done by establishing several specialized institutes, such as those for the blind, physical rehabilitation and training, and persons with autism. (Office of the Coordinator of International Recommendations, Kurdistan Regional Government, 2019, p. 4). These institutes have vocational training programs that provide training in many careers like carpentry, ceramics, metalwork, computer skills, and electrical work, and hence enabling persons with disabilities to gain practical skills that will enable them to integrate into the labor market (Office of the Coordinator of International Recommendations, Kurdistan Regional Government, 2019, p. 4). Educational programs are also offered in other specialized institutes at other levels, such as kindergarten and basic education of blind students who can further their education at the secondary level (Office of the Coordinator of International Recommendations, Kurdistan Regional Government, 2019, p. 4).

Additional institutional work has been done in the Kurdistan Region of Iraq to facilitate educational inclusion. The government has introduced strategies that will see students with special educational needs being integrated into mainstream schools and minimize differences in access to education. The Directorate-General for Basic Education established the Directorate for Special Education in 2007 to deal with the problems of students with special needs. The functions of the Directorate are to provide equal access to educational facilities, carry out educational evaluation to establish the nature and level of disabilities, design the right curricula and teaching resources, and prepare special teachers who can educate disabled students based on their needs (United Nations, 2017, para 139). Such initiatives have been supported by the formulation of



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educational policies since the adoption of Law No. 22 of 2011, which seeks to offer holistic educational services under integration projects that will result in the realization of education for all (United Nations, 2017, para 140).

Educational and vocational programs for persons with disabilities are also provided by the Ministry of Labour and Social Affairs in the Kurdistan Region through special institutes that work in the governorates of Erbil, Dohuk, and Sulaymaniyah. These institutes offer rehabilitation, education, and training services to students with disabilities, such as the institutes of the blind, the deaf and mute, rehabilitation centers for persons with physical disabilities, and institutions for persons with learning difficulties. These institutions accommodated about 930 students during the 2014-2015 academic year (United Nations, 2017, para 142). These projects indicate an increasing institutional interest in the educational and social inclusion of people with disabilities in the region.

Despite these legislative and institutional changes, international monitoring bodies have been concerned regarding the actual implementation of inclusive education in Iraq. In its concluding observations on the first report of Iraq, the Committee on the Rights of Persons with Disabilities pointed out that a large number of children with disabilities are still being taught in separate classes and that some of them, especially those with visual or hearing disabilities, are struggling to further their education after primary school. The Committee also noted that there are too many children with disabilities who are out of school, and also the barriers associated with long distances to school, unavailable transportation, an inadequate number of teachers trained in inclusive education, and a lack of sign language, Braille, and accessible curricula (United Nations, 2017, para 43). The Committee, in turn, suggested that Iraq should take urgent action to ensure inclusive, high-quality, and free education for children with disabilities and provide sufficient human, technical, and financial resources to facilitate individualized learning and inclusive learning environments (United Nations, 2017, para 44).

Inclusive education and educational integration are, therefore, critical processes of ensuring the right to education among children with disabilities. The legislation of Iraq, especially Law No. 38 of 2013, obliges the Ministry of Education to organize schools to receive students with disabilities, supply them with special educational materials, and train teachers to cooperate with them. Likewise, the Kurdistan Region law





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requires the government to make education available at every level and supply the necessary educational facilities and specialized personnel to facilitate integration into the mainstream schools. Article 24 of the Convention on the Rights of Persons with Disabilities at the international level highlights the fact that inclusive education is the most efficient way of ensuring equality and eliminating discrimination.

However, a critical evaluation shows that the primary problem is not the lack of legal provisions but the successful enforcement. Although the legislation of Iraq and Kurdistan officially acknowledges the concept of inclusive education and ensures equal opportunities to people with disabilities, most schools still do not have convenient infrastructure, special educational resources, and properly trained specialists. Consequently, inclusion is more of a legal obligation than a reality. To overcome these challenges, more efforts should be put into educational infrastructure, teacher training, learning resources, and overall policies to make sure that persons with disabilities can enjoy their right to education equally with others.

### **4-2The Right to Healthcare**

Health is a universal human right that is not only the lack of disease but also the attainment of full physical, mental, and social well-being (World Health Organization, 2011, pp. 9–12). This wide understanding requires states to offer universal healthcare services in the form of disease prevention, treatment, rehabilitation, and education of the population about health to all citizens without any discrimination. The provision of access to necessities of health, including clean drinking water, safe food, appropriate working and living conditions, and the spread of health-related information, is part of the achievement of this right. In most developing nations, such as Iraq, however, the delivery of such services is quite problematic as there are economic hardships, security unrest, mismanagement, and rampant corruption. These are the reasons why the quality of healthcare services to the general population is low and puts certain disadvantages on persons with disabilities who, in most cases, need specialized medical and rehabilitative services.

The 2005 Iraqi Constitution guarantees the right to health and healthcare in Article 31, emphasizing both preventive and curative measures to protect human health and ensure access to medical care. In addition to this constitutional requirement, the Iraqi Public Health Law No. 89 of



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1981, in Article 1, confirms that full physical, mental, and social health is an assured right of all citizens, and that the state has a duty to ensure that the right is facilitated, and that citizens are allowed to contribute fully to society. Article 24/Third of this law clearly states that the Ministry of Health has the role of offering the required healthcare and treatment to individuals with special needs, such as those with intellectual disabilities, age-related disabilities, and epilepsy, which is important in ensuring the physical and mental well-being of the citizens.

These responsibilities are elaborated in the Law on the Care of Persons with Disabilities and Special Needs No. 38 of 2013, which gives the Ministry of Health the following responsibilities: the development of preventive programs, primary healthcare during pregnancy, childbirth, and postnatal stages, and the registration of children at risk of developing disabilities (Public Health Law No. 89 of 1981, art. 15/1(A–B–D–F)). These are mainly preventative measures which focus on minimizing the number of people with disabilities, and the role of the Ministry is also to integrate people with disability into society, provide housing, and social rehabilitation (Public Health Law No. 89 of 1981, art. 15/1(G–H–I)). Despite such legal stipulations, the implementation of health insurance for people with disability is imperfect, and many individuals are still deprived of the promised benefits (Health Insurance Funds Law No. 101 of 1985, 1985).

The healthcare system in Iraq has been experiencing a long-term problem. The 1990s economic embargo caused harm to health services and planning, which contributed to increased diseases. The situation was aggravated after 2003 when conflict and terrorism caused more insecurity and deteriorated the delivery of healthcare. The health statistics across the world indicate that individuals with disabilities obtain poorer healthcare services. They acquire more health issues and can hardly get access to valuable assistive devices or rehabilitation services. They also face more unhealthy behavior due to a lack of comprehensive health programs to help them.

Law No. 22 of 2011 supports the right to health of people with disabilities in the Kurdistan Region of Iraq. Article 12/First provides free access to healthcare, including treatment outside the region when necessary. Article 12/Second guarantees access to rehabilitation equipment, medical devices, and early detection programs for disabilities (Wnas, 2025, pp. 364–365). At the same time, CRPD Article 25 provides that individuals





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with disabilities are entitled to the highest standard of health possible without any discrimination. It demands that the government offer healthcare that is both accessible and inclusive and respectful to the dignity and decisions of a person. It further states that individuals with disabilities should not be deprived of healthcare or be unfairly treated in health or life insurance due to their disability.

Although Iraqi law is generally in line with international norms, there are still gaps in practice. Article 31 of the Iraqi Constitution and Article 15 of Law No. 38 are concerned with the prevention and early detection of disabilities, yet this medical caregiving model is inclined to teach citizens how to prevent disabilities, but not to provide equal access to healthcare for people with disability. (Al-Azzawi et al., 2018, p. 35). The Law No. 89 (1981) on Public Health and the Law No. 38 (2013) partially endorse equal healthcare. They primarily address mental, intellectual, and neurological disorders and do not comprehensively address such critical matters as reasonable accommodation, accessible facilities, and training medical personnel on disability rights. Practically, the application of the laws also has issues. Free healthcare is not always available, obtaining disability ID cards takes time, and certain services still require payment. These problems undermine the law and contradict constitutional and international commitments (Al-Azzawi et al., 2018, p. 35).

Individuals with disabilities, particularly women, are usually discriminated against when they seek to obtain reproductive, maternal, and child healthcare. They face social and psychological obstacles, negative attitudes among certain medical personnel, who are not involved in health planning (Al-Azzawi et al., 2018, p. 36). In the Kurdistan Region, healthcare facilities are physically inaccessible, and few specialized services are available. Financial and infrastructure support is also lacking. Critical services such as rehabilitation, physiotherapy, occupational therapy, and mental health care are usually unavailable, and a large number of medical personnel are not trained on disability-inclusive care.

Such difficulties complicate access to healthcare by people with disabilities and restrict their right to make their own choices regarding treatment. Legally, the Federal Law on the Rights of Persons with Disabilities in Articles 15 (Second-B, C, E) and the Kurdistan Region Law (Law No. 22 of 2013) in Article 12 offer free healthcare services, which include prevention, treatment, early detection, rehabilitation, and



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medical care, also these measures include genetic counseling, psychological support, rehabilitation, and special medical centers.

Practically, the 2019 National Health Care Plan of Persons with Disabilities in Iraq contained the programs of early detection of disabilities and provision of rehabilitation services to children with disabilities in Iraq (Iraqi Ministry of Health, 2019). The annual reports of the Ministry of Labor and Social Affairs in the Kurdistan Region reported the programs of vaccination, periodic checkups, and free treatment services to people with disabilities (Ministry of Labor and Social Affairs in the Kurdistan Region, 2020). The General Comment No. 9 (2006) of the Committee on the Rights of the Child and the WHO Strategy on Persons with Disabilities (2014-2021) focuses on the inclusion of these services in the mainstream healthcare systems (Committee on the Rights of the Child, 2006, para. 10; World Health Organization, 2014). Scholarly literature attests that preventive care, nutrition, vaccinations, and special therapies enhance the health and social inclusion of children with disabilities (Abdelhamid, 2016, p. 77).

However, implementation remains the most challenging issue. Although the legislation of both Iraq and Kurdistan, as well as international standards, formally provide the right to healthcare and rehabilitation of people with disabilities, in practice, these rights are not often implemented because of the lack of infrastructure, the lack of trained specialists, the lack of financial resources, and social stigma. The Committee on the Rights of Persons with Disabilities has pointed out certain issues, such as the lack of access of children, rural communities, internally displaced people, and women, the lack of training of medical and paramedical personnel, and the lack of distribution of available healthcare information (United Nations, 2019, para 45).

In comparison, the international framework, the Iraqi federal law, and the legislation of the Kurdistan Region are similar in acknowledging the right of persons with disabilities to health and healthcare without any discrimination and to access preventive, curative, and rehabilitative services. Nevertheless, even with strong legal provisions, a common problem at all levels is the law versus practice. Enhancement of service delivery, accessibility, and reasonable accommodations, training of healthcare professionals on disability rights, and inclusion of health services in an inclusive system are the key factors that can make health rights effective for persons with disabilities in Iraq and Kurdistan. In the





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absence of these, the right to health will be formally respected, but in practice limited, which is why the implementation of enforcement mechanisms and monitoring is extremely necessary to make sure that persons with disabilities can equally enjoy health services as other citizens.

### **4-3 Right to Work and Employment**

The right to work is one of the basic constitutional and human rights in Iraq, as Article 22(1) of the Iraqi Constitution of 2005 confirms that work is a right of all Iraqis, and ensures them a dignified life on the principles of equality. This constitutional right is in line with the international legal framework that has been set out by the CRPD, especially Article 27, which states the right of persons with disabilities to earn a living through work that is freely chosen or accepted in an open, inclusive, and accessible labour market. Article 27 also forbids discrimination based on disability in all employment areas, such as recruitment, hiring, promotion, job security, working conditions, and equal pay for work of equal value, reasonable accommodation, and encouragement of employment through vocational training, self-employment, and incentives in both the public and the private sector. Notably, the Convention represents a change from the medical or welfare-based approach to the rights-based approach, which focuses on the active involvement of persons with disabilities in the labour market instead of their treatment as passive consumers of care. However, even with this strong normative structure, in most jurisdictions, such as Iraq, there is a problem of poor implementation because of poor enforcement, inaccessibility, and social stigma.

In the legal systems of both Iraq and the Kurdistan Region, the right to work for people with disabilities is officially recognised and supported by constitutional provisions, statutory legislation, and policy measures. The Federal Law No. 38 of 2013 on the Rights of Persons with Disabilities and Special Needs provides responsibilities of the public and the private sector to provide employment opportunities, including quota systems. Article 15 (Fifth, A) Law No. (38) of 2013 stipulates the delivery of proper vocational training and the development of skills according to the needs of the labour market. Article (15/Thirteenth) also mandates that ministries, government agencies, the private sector, and investors allocate specific percentages of jobs to persons with disabilities (5% in the public sector, 3% in investment projects, and varying percentages in the private sector). Article (16) emphasizes the provision of vocational rehabilitation



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and employment programs and the creation of a suitable work environment that guarantees equality and non-discrimination (Ministry of Planning and Development Cooperation, 2009, p. 31). Simultaneously, Law No 22 of 2011 in Kurdistan, in Article 10(1), provides that the law affirms the right of persons with disabilities and special needs to work, just like any other member of society, and to get rehabilitation and employment opportunities, which are commensurate to their abilities and qualifications, based on equality and equal opportunity. Article 10(2) also provides that the Ministry, in consultation with the concerned authorities, shall undertake the rehabilitation of persons with disabilities and special needs to join vocational training centers, create workshops or employment agencies, and oversee their employment in its affiliate departments. Article 10 (3) stated that the government is determined to provide persons with disabilities and special needs in the public sector with jobs at a minimum rate of (5) of the total number of jobs, upon their rehabilitation. Article 10 (4) says that the government will promote employers in the private sector to offer jobs to individuals with special needs, once they are rehabilitated in accordance with the job requirements. The government will cover half of their monthly salary for three years as per the provisions of Article (Six) of this law (Ministry of Planning and Development Cooperation, 2009, p. 31). These provisions demonstrate a convergence with international standards, particularly in adopting both negative obligations (prohibiting discrimination) and positive obligations (ensuring active inclusion).

Nevertheless, the critical comparative analysis shows that there are major discrepancies between the formal legal framework and its practical implementation. Although quota systems have been incorporated in federal and regional laws, the mechanisms used are narrow, quantitative, and are likely to diminish the right to work to a mere numerical reflection of equality as opposed to substantive equality. The use of quotas, 3% under federal and up to 5 percent in the Kurdistan Region, has not been put in practice effectively, as observed by the Committee on the Rights of Persons with Disabilities, which indicated that the targets have not been met in practice (United Nations, 2019, para. 49). In addition, there are no clear regulatory mechanisms to implement Article 15(4)(b) of Law No. 38 (2013), especially on job creation and accommodation at the workplace, which further compromises the effectiveness of these provisions. Another issue that was raised by the Committee was the absence of reasonable accommodation in the public and private sectors, which is a direct breach of Article 27 of the Convention (United Nations,





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2019, para. 49). As a result, the legal texts are formally in compliance with the international requirements, but their application is characterized by structural gaps and poor institutional responsibility.

More importantly, the Iraqi law remains to be affected by a medical concept of disability, which is inherently incompatible with the rights-based approach of the Convention. This can be seen in the previous legal provisions like the Civil Service Law No. 24 of 1960 and the Medical Committee Rules No. 5 of 1992, which made the employment eligibility contingent on medical fitness and barred the employment of physically, sensually, or intellectually impaired persons in the public sector (Al-Azzawi et al., 2018, p. 39).

The fact that the discretionary power of medical committees is used to decide whether PwD are fit to exercise their right to work effectively institutionalises discrimination. It strengthens the exclusion of persons with disabilities from the labour market. A real-life example of this institutional discrimination is the denial of a blind applicant with a master's degree in international law to a teaching job, just because he was disabled, even though he was qualified academically (Al-Azzawi et al., 2018, p. 39). These practices indicate that medicalized tests prevail over merit and competence, leading to a structural denial of equal opportunity and contravening both constitutional guarantees and international human rights norms (Al-Azzawi et al., 2018, p. 39).

However, more recent legislative developments seek to mitigate these failures by providing more extensive social and institutional support mechanisms. The 2024 amendment to Law No. 38 of 2013 expands the mandate of the Ministry of Labour and Social Affairs to include vocational training, equal employment opportunity, job accommodation for employees who develop disabilities in the course of service, and social protection, which includes monthly allowances for those who are incapacitated from working. It also incorporates family training, licensing of rehabilitation institutions, accessibility requirements in infrastructure, community-based rehabilitation, and issuance of biometric identification cards to ease access to services. Although such measures represent a more holistic view of inclusion, they nevertheless do not explicitly acknowledge reasonable accommodation as a legally binding right, instead basing their interpretation on implicit interpretations based on equality principles (Ministry of Planning and Development Cooperation, 2009, p. 31). This exclusion undermines the enforceability of workplace



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adaptations and creates a wide gap in compliance with Article 27 of the Convention.

Moreover, the efficiency of employment policies is impaired by more socio-economic and institutional issues. The fact that discriminatory attitudes are still present in both governmental institutions and in the practice of the private sector means that the legislative change is not enough. The exclusionary strategy inherent in the national legislation is frequently reproduced by the private employers, such as discriminatory hiring and unfair dismissal due to disability (Al-Azzawi et al., 2018, p. 39-40). Also, women with disabilities experience compounded discrimination where they have little access to education, training, and employment opportunities because of poor public policies and social barriers. This underscores the inter-sectional character of discrimination and the necessity of specific actions that transcend the broad legal provisions.

Policy-wise, to improve the right to work of persons with disabilities, there is a need to change formal compliance to substantive inclusion by using coordinated institutional strategies. This involves enhancing vocational training systems, enhancing early career guidance and transition plans between education and employment, especially among children with disabilities (UNESCO, 2021, p. 45). Early multidisciplinary evaluation and individual education plans may be important to match the skills development with the labour market requirements (World Health Organization & UNICEF, 2022, pp. 86–93), whereas practical strategies, including apprenticeships, available training settings, and assistive technologies, can enhance the employability outcomes (International Labour Organization, 2013). In this respect, federal and regional legislation acknowledges the role of vocational rehabilitation and training, but their efficiency is determined by the ability to coordinate the work of government agencies, including the Ministry of Labour and Social Affairs, vocational training organizations, and civil society.

Conclusively, although Iraq and the Kurdistan Region have developed a legal framework that formally conforms with international standards on the right to work by persons with disabilities, there is still a wide gap between the law and practice. The persistence of the medical model, laxity in implementation of quota systems, lack of clear, reasonable accommodation requirements, and lack of institutional coordination undermine the achievement of this right. A real shift to a rights-based





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approach would not only involve legislative change but also policy implementation, institutional responsibility, and social attitudes so that persons with disabilities can be able to engage in the labour market on an equal and dignified footing.

### **4-4 Right to Cultural Life, Recreation, Leisure, and Sport**

The right of persons with disabilities to cultural life, recreation, leisure, and sport has been established in the international, constitutional, and domestic legal frameworks as a vital element of human dignity and social inclusion. On the international level, the Convention on the Rights of Persons with Disabilities confirms that persons with disabilities are entitled to engage in sporting activities on equal terms with others and states must promote and facilitate their participation at all levels (Convention on the Rights of Persons with Disabilities, 2006, art. 30/5(a, d)). This acknowledgement is part of a wider international concern with equality, as demonstrated by such institutionalized events as the Paralympic Games, which are conducted alongside the Olympic Games every four years and which represent the equal acknowledgement of athletic participation between individuals with and without disabilities. These developments show that engaging in sports is no longer considered a privilege but a right inherently associated with equality and non-discrimination.

At the constitutional level, the Iraqi Constitution of 2005 guarantees the right to practice sports for every individual without discrimination, obligating the state to encourage and sponsor sporting activities and provide the necessary resources (Iraqi Constitution, 2005, art. 36). This constitutional recognition establishes a general legal foundation; however, its broad wording necessitates detailed legislative intervention to ensure effective implementation for persons with disabilities. In this regard, Iraqi legislation, particularly the Law on the Care of Persons with Disabilities and Special Needs No. 38 of 2013, provides a more specialized framework by imposing concrete obligations on state institutions. According to the law, the Ministry of Youth and Sports is charged with the responsibility of establishing and promoting sports centers and clubs, encouraging participation in local and international events, promoting sports in schools and specialized institutions, and providing trained personnel and appropriate equipment (United Nations, 2017, para. 189; Law No. 38 of 2013, art. 15/5). These regulations



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indicate a shift in merely treating people equally to real equality, by responding to the unique issues of persons with disabilities.

Likewise, the Ministry of Youth and Sports Law No. 25 of 2011 supports these requirements by providing the activation and support of Paralympics federations and sports organizations to persons with intellectual and special needs, the development of medical and therapeutic services and the creation of special centers (Ministry of Youth and Sports Law No. 25 of 2011, arts. 3/2, 4/13; Ministry of Youth and Sports Law No. 25 of 2011, art. 3/2). These legislative actions reflect a comprehensive strategy that includes sports engagement with healthcare and rehabilitation and, therefore, meets the multidimensional needs of persons with disabilities. However, a critical analysis shows that even though the legal framework is elaborate, there is the risk of being fragmented by overlapping mandates and a lack of clear coordination mechanisms among institutions that can jeopardize the implementation process.

Comparatively, the Kurdistan Region of Iraq has taken a more elaborate and, in a way, progressive legislative approach with Law No. 22 of 2013. Article 13 has direct responsibilities on the government to make sports facilities, such as stadiums, halls, and clubs, accessible, to provide the necessary equipment, to facilitate participation in the national and international programs, and to waive the entrance fee to sports, cultural, and recreational facilities for persons with disabilities. Such specificity indicates a greater dedication to eliminating practical and financial obstacles to participation. In addition, the legislation supplements previous acts, including Article 11 of Law No. 22 of 2011, which ensures the inclusion in cultural and sporting activities and requires authorities to develop inclusive programs. The Kurdistan framework is more focused on accessibility and affordability than federal Iraqi legislation, and thus it is more consistent with the idea of reasonable accommodation as a concept of international law.

Although these legislative improvements have been made, the federal government of Iraq and the Kurdistan Region are experiencing similar difficulties in the practical implementation. It is reported that despite the efforts to create specialized sports clubs and integration programs, the participation, especially among children with disabilities, is still low because of the lack of infrastructure and the lack of specialized personnel (Iraqi Ministry of Labor and Social Affairs, 2020; Ministry of Culture and





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Youth of the Kurdistan Region, 2021). This gap between legal recognition and practical realization highlights a recurring issue in comparative disability law: the persistence of formal compliance without sufficient institutional capacity or resource allocation to achieve substantive outcomes. From a critical perspective, this suggests that the effectiveness of legal protections is contingent not only on normative clarity but also on enforcement mechanisms, budgetary commitments, and administrative efficiency.

Sports are not the only right to participate in cultural and recreational life. It also involves access to cultural activities, tourist places, and freedom of movement. This is acknowledged in both Iraqi and Kurdistan laws that demand the state to make access more convenient and arrange inclusive activities (Convention on the Rights of Persons with Disabilities, 2006, art. 30/5). This demonstrates that social inclusion is not about sports only, but about all spheres of the life of the population. Nonetheless, there are vulnerable groups that are not explicitly stated in some laws, such as children with disabilities. Although they are also covered in general, this omission of clarity can be a gap in the law.

Moreover, the legal framework of persons with disabilities in Iraq includes complementary rights, including legal and judicial assistance, which indirectly contribute to their involvement in the life of the population. International principles, such as the 1991 United Nations principles, demand judicial protection of people who cannot handle their affairs (United Nations, 1991, princ. 1/7), whereas the Iraqi law allows appointing judicial assistants and enforcing the availability of legal procedures, such as assistive technologies and accommodations (Ateeq, 2005, p. 94; Ministry of Youth and Sports Law No. 25 of 2011, art. 15/6(A, B)). These provisions, though not directly connected with sports, do support the overall principle of equality before the law, which is the basis of the effective exercise of all rights, including the right to be involved in cultural and recreational activities.



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On the whole, a comparative study shows that although the right of persons with disabilities to engage in sports and cultural life is acknowledged in both international and domestic legal systems, the legislation of the Kurdistan Region is more specific in terms of accessibility and financial issues. Conversely, the federal Iraqi law offers a more comprehensive institutional framework but needs more powerful implementation mechanisms. The most important issue in both systems is the gap between legal guarantees and actual practice, which requires greater coordination, more funding, and constant monitoring to make the right to participation a meaningful and inclusive process.

### **Conclusion**

This research has critically examined the legal protection afforded to persons with disabilities in Iraq and the Kurdistan Region by analyzing national legislation and assessing its consistency with international standards, particularly the CRPD. The study aimed to bridge the gap between legal theory and practical implementation, focusing on key sectors such as healthcare, education, employment, and social inclusion.

### **1- Findings**

The findings of this research reveal several important issues:

First, even though Iraq and the Kurdistan Region have adopted certain laws, such as Law No. 38 of 2013 and Law No. 22 of 2011, these laws offer a general and incomplete protection of persons with disabilities. They do not provide specifications that guarantee the complete implementation of rights, especially on accessibility, reasonable accommodation, and enforcement provisions.

Second, the study reveals a major disparity between the law and practice. Although the rights are formally acknowledged, their enforcement is still poor because of the lack of institutional capacity, funding, and the absence of effective monitoring mechanisms. Consequently, individuals with disabilities still experience obstacles in the provision of fundamental services, including healthcare, education, and employment.

Third, the paper points out that the rights-based approach of the CRPD is not entirely consistent with domestic legislation. Rather, aspects of the traditional medical and welfare paradigm of disability remain, which





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emphasize care and support as opposed to empowerment, autonomy, and full societal participation.

Fourth, the study also finds that there is a lack of awareness and training among the public officials and service providers, which also contributes to the inability to effectively use legal protections. This is a factor that leads to continued discrimination, social exclusion, and poor service delivery.

Lastly, the paper finds that the issues are not only legal but also structural and social. The protection of persons with disabilities will not be complete without a comprehensive approach that involves legal reform, strengthening of institutions, and awareness of society.

### **2-Recommendations**

In light of the above findings, the research proposes the following recommendations:

- 1- The Iraqi federal and Kurdistan Regional legislatures must amend the existing laws, particularly the Law No. 38 of 2013, and Law No. 22 of 2011, to be fully compliant with the CRPD, i.e., by explicitly covering the principles, such as non-discrimination, accessibility, and reasonable accommodation, and by prescribing clear and enforceable legal duties
- 2- The government should establish powerful and autonomous monitoring agencies, as well as strengthen enforcement mechanisms and provide sufficient financial and institutional resources to ensure that the rights of persons with disabilities are not only enshrined in the law but are fully exercised.
- 3- The government should put in place and institute far-reaching accessibility policies in every aspect, including healthcare, education, transport, and also endeavor to develop inclusive systems that could enable persons with disabilities to participate fully and equally in society.
- 4- The training of the public officials, lawyers, teachers, and workers in healthcare should be a continuous process by the relevant institutions. They are also supposed to carry out national awareness campaigns in order to minimize stigma and make people appreciate disability in a rights-based view in order to be more inclusive in society.



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